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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/001,442
Filing Date: October 31, 2001
Appellant(s): SHELDON ET AL.

Monplaisir G. Hamilton
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 4/29/08 and 5/12/2008 appealing from the Office action mailed 12/26/2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,437,102	Rodden et al	10-2002
6,581,020	Buote et al	6-2003

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

1. Claims 1, 3-9, 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over US patent #6,473,102 (Rodden et al), in view of US patent #6,581,020 (Buote et al).

- As for claims 1, 6, 7: Rodden et al (herein Rodden) teach a computer implemented method and corresponding system for displaying a graphical window on a display screen having a screen resolution, comprising the steps/means for:

determining, for the window, whether a display size and display screen position are specified for the window (1:58-59, 2:14-17, 4:32-42, 5:2-5), and

if the size and position are specified, rendering the window at the specified size and position so that the window is not automatically maximized (1:59 – 2:11. See also description of figure 4),

if the size and position are not specified, determining the screen resolution for the display screen,

automatically and inversely changing the size of a display window responsive to changing the screen resolution of current display device or switching between display devices of different resolution, i.e., changing the display device not the resolution (1:22-28; 3:62-66).

While Rodden discloses the comparing of screen resolution against current screen resolution (i.e., changing screen resolution, 3:52-4:31), Rodden fails to clearly teach the comparing the screen resolution against a pre-determined threshold value and automatically maximizing the size of the window on the display screen if the screen resolution is below the pre-determined threshold value. However, in the same field of window layout, Buote et al teach the comparing screen resolution against a pre-

determined threshold value and automatically maximizing the size of the window on the display screen if the screen resolution is below the pre-determined threshold value (Buote's 11:15-21). It would have been obvious to one of skill in the art, at the time the invention was made, to combine Buote's teaching to Rodden for automatically maximizing the window at a predetermined resolution threshold. Motivation of the combining is to predefine the window size to avoid the lost of information (i.e., the window become larger than the display screen). The steps/means for determining the screen resolution for the display screen is inherently included in Buote's teaching of resolution threshold.

- As for claim 3. Per Rodden, the user may control the size and position of selected windows so that the windows will not be automatically maximized due to the change in resolution (1:28-31; 4:32-42).
- As for claim 5: Per Buote, the predetermined threshold value is 800 pixels by 600 pixels (11:15-21).
- As for claims 4, 11: It is inherently included in Rodden's teaching of window that the window include a sizing button for reducing (thus restoring) the size of the window by a pre-determined amount. Even if it is not, Official notice is taken that implementation of the window sizing button is well known (see Buote's figure 4), and would have been obvious to one of skill in the art for controlling the size of the window.
- As for claims 8, 12-13: Rodden et al (herein Rodden) teach a computer implemented method and corresponding system for displaying a graphical window on a display screen having a screen resolution, comprising the steps/means for:

determining, for the window, whether a display size and display screen position are specified for the window (1:58-59, 2:14-17, 4:32-42), and
if the size and position are specified, rendering the window at the specified size and position so that the window is not automatically maximized (1:59 – 2:11. See also description of figure 4),
if the size and position are not specified, determining the screen resolution for the display screen,
automatically and inversely changing the size of a display window responsive to changing the screen resolution of current display device or switching between display devices of different resolution, i.e., changing the display device not the resolution (1:22-28; 3:62-66).

While Rodden discloses the comparing of screen resolution against current screen resolution (i.e., changing screen resolution, 3:52-4:31), Rodden fails to clearly teach the comparing the screen resolution against a pre-determined threshold value and automatically maximizing the size of the window on the display screen if the screen resolution is below the pre-determined threshold value. However, in the same field of window layout, Buote et al teach the comparing screen resolution against a pre-determined threshold value and automatically maximizing the size of the window on the display screen if the screen resolution is below the pre-determined threshold value (Buote's 11:15-21). It would have been obvious to one of skill in the art, at the time the invention was made, to combine Buote's teaching to Rodden for automatically maximizing the window at a predetermined resolution threshold. Motivation of the

combining is to predefine the window size to avoid the lost of information (i.e., the window become larger than the display screen). The steps/means for determining the screen resolution for the display screen is inherently included in Buote's teaching of resolution threshold. Per Rodden, the user may control the size and position of selected windows so that the windows will not be automatically maximized due to the change in resolution (1:28-31; 4:32-42).

- As for claim 9: It is inherently included in Rodden that the creating step is performed through an application programming interface call, and wherein said determining step is performed by monitoring the application programming interface call (3:25-39).
- As for claim 14: Rodden et al (herein Rodden) teach a computer implemented method and corresponding system for displaying a graphical window on a display screen having a screen resolution, comprising the steps/means for:

creating a viewing window for the display of information on the display screen. It is inherently included in Rodden's teaching of window that the window includes a sizing button for reducing (thus restoring) the size of the window by a pre-determined amount. Even if it is not, the "restore" button is disclosed by Buote in figure 4 (Buote's window sizing button in figure 4 appears similar to the applicant's restore button 214). It would have been obvious to one of skill in the art at the time of the invention was made, to combine Buote's window sizing button to Rodden. Motivation of the combining is for controlling the size of the window.

determining, for the window, whether a display size and display screen position are specified for the window (1:58-59, 2:14-17, 4:32-42), and

if the size and position are specified, rendering the window at the specified size and position (1:59 – 2:11. See also description of figure 4),
if the size and position are not specified, determining the screen resolution for the display screen,
automatically and inversely changing the size of a display window responsive to changing the screen resolution of current display device or switching between display devices of different resolution, i.e., changing the display device not the resolution (1:22-28; 3:62-66). Thus the window is enlarged if the resolution is reduced. Further, the enlarged window can be further maximized (or reduced to a pre-determined size. Note Buote's three buttons for resizing the window: button 151 for minimizing, button 149 for closing, the middle button is for maximizing/reducing the window to the pre-determined size) by using the window sizing icon.

(10) Response to Argument

The Rodden et al. reference:

Rodden's disclosure directs to the automatic resizing of windows in response to changing of screen resolution (1:10-14). As the screen resolution increases, the size of the window decreases. Changing of resolution may change the window to an undesirable size, too large or too small, affecting the clarity of display information (1:23-50), 3:57-4:4). Therefore it is desirable that the window can be automatically resized in response the resolution change (4:13-17, 25-29). This is in parallel with the appellant's specification (*"At higher resolutions, the screen appears to have more "desktop" space,*

because objects appear smaller on the screen. Therefore, with the higher resolutions, the display image is sharper, but the icons and associated text will appear smaller and may be more difficult to clearly identify". Appellant's spec, page 3, lines 3-10). Per Rodden, whenever the screen resolution changes, the system responds by determining whether any currently displayed window has been designated as one which the user desires to keep on the desktop, step 50. If so, the window is displayed with the user the preferred size, step 54 (1:53-59, 2:14-17, 4:48-5:5). Thus per Rodden, the window size is recalculated every time there is change in the screen resolution, i.e., Rodden fails to clearly teach a resolution threshold such that the window size recalculation would take place if the resolution threshold is reached. However, one of skill in the art would appreciate from Rodden that changing of the resolution in some small degree may not affect the display content that much, and changing the resolution in larger degree will substantially affect the display content such that become unviewable. I.e., it is implicitly suggested, or one of skill in the art could derive from Rodden disclosure that there is a threshold of resolution such that changing the resolution beyond this threshold would result in undesirable window view (1:22-37, 4:57-59, 5:33-40). "It is proper to take into account not only specific teachings of the references but also the inferences which one skilled in the art would reasonably be expected to draw therefrom. . . " (In re Hoeschele, 406 F.2d 1403, 1406-07, 160 USPQ 809, 811-812 (CCPA 1969)).

The Buote et al. reference:

Buote et al teach a method of displaying windows depends on a display screen resolution threshold. If the screen resolution threshold is at or below 600x800, all

windows are displayed in a first mode (maximized mode). If the screen resolution is higher than 600x800, all windows are displayed in a second mode (window mode).

The combined teachings of Rodden & Buote read on the inventions:

Rodden et al (herein Rodden) teach a computer implemented method and corresponding system for displaying a graphical window on a display screen having a screen resolution, comprising the steps/means for:

determining, for the window, whether a display size and display screen position are specified for the window (1:58-59, 2:14-17, 4:32-42), and

if the size and position are specified, rendering the window at the specified size and position so that the window is not automatically maximized (1:59 – 2:11. See also description of figure 4),

if the size and position are not specified, determining the screen resolution for the display screen,

automatically and inversely changing the size of a display window responsive to changing the screen resolution of current display device or switching between display devices of different resolution, i.e., changing the display device not the resolution (1:22-28; 3:62-66).

Rodden nearly anticipates the claimed inventions except Rodden fails to clearly teach comparing the screen resolution against a pre-determined threshold value and automatically maximizing the size of the window on the display screen if the screen resolution is below the pre-determined threshold value. However, one of skill in the art would appreciate from Rodden that changing of the resolution in some small degree may

not affect the display content that much, and changing the resolution in larger degree will substantially affect the display content such that become unviewable. I.e., it is implicitly suggested, or one of skill in the art could derive from Rodden disclosure that there is a threshold of resolution such that changing the resolution beyond this threshold would result in undesirable window view (1:22-37, 5:33-40). In the same field of window layout, Buote et al teach the comparing screen resolution against a pre-determined threshold value and automatically maximizing the size of the window on the display screen if the screen resolution is below the pre-determined threshold value (Buote's 11:15-21). It would have been obvious to one of skill in the art, at the time the invention was made, to combine Buote's teaching to Rodden for automatically maximizing the window at a predetermined resolution threshold. Motivation of the combining is to predefine the window size to avoid the lost of information (i.e., the window become larger than the display screen, or become too small). As combined, the window size would be recalculated only when resolution threshold is reached instead of every time the resolution changes, thus reducing processing time. The steps/means for determining the screen resolution for the display screen is inherently included in Buote's teaching of resolution threshold. Rodden as combined with Buote allows windows to maintain its display size and position if the windows are specified, and causes the windows to be maximized when the screen resolution is below a pre-determined threshold value, if the windows are not specified. Furthermore, the claim broadly recites a "pre-determined threshold value" without specifically define what the value is. The appellant's specification states: *"The threshold can be set at different values, depending upon*

prevailing technology most available at the time. As set forth above, the most widely used and available screen resolution at the present time is 800x600 pixels. Therefore, in one embodiment, the threshold resolution value is 800 by 600 pixels" (appellant's spec, page 12, line 20 – page 13, line 1). As evident from the spec, the resolution threshold is not arbitrarily selected, but only a manufactured display device resolution. A window which occupies the entire screen of 800x600 resolutions is said in its maximized state. In another word, the resolution capacity of a display device is a threshold resolution for maximization of a window. This interpretation is read on by Rodden.

Appellant's argument:

The appellant made an overview allegation, not directed to any appeal claims, that Rodden and Buote teach away from each other because the windows in Buote can not be resized, and Buote does not teach or suggest selectively altering the size of the window based on resolution. The appellant concludes that the references teach away from each other because they can not be combined together. The argument is not deemed persuasive for the following reasons:

1. The appellant appears erroneously argues that Buote does not teach selectively altering the size of the window based on resolution. Per Buote, "The display mode of each window depends on the screen resolution set forth the computer. If the screen resolution is set at 600x800, all windows will appear in maximized mode. If the display mode is set higher than 600x800 then all windows will appear in window mode" (Buote 11:15-20). The above teaching clearly teaches altering the size of the window based selected resolution.

2. The appellant further adds "Rather, in Buote all windows are the same size without regard to screen resolution. In other words, all windows are rendered with a size 600 pixels by 800 pixels by Buote". This statement appears to be an allegation not being supported by fact. The appellant did not, and the examiner could not find anywhere in Buote that all windows are displayed at the same size, and that all window are rendered with a size of 600 pixels by 800 pixels. Buote discloses "If the screen resolution is set at 600x800, all windows will appear in maximized mode". The "600x800" is clearly a screen resolution, NOT the size of the window. The appellant appear to assume that when the windows are maximized, the all windows would have the same size of 600x800 pixels. This assumption is technically incorrect: The size of the window is defined in the property of the window. If the size of the window is defined to be 300x400 in maximized state, then that that it would be. Further, as combined, only un-specified windows would be maximized, as set forth in the rejection.

3. The appellant argues that all Buote's windows would change their sizes at the resolution threshold, therefore teach away from Rodden. The appellant appears to integrate Buote's specific windows interface into Rodden instead of just using Buote's idea of defining a resolution threshold to Rodden's re-calculation of window size every time the resolution change. As set forth in the rejection, it would be advantage to implement the re-calculating and changing of window size only when the resolution threshold is reached instead of every time the resolution changes (Rodden's 5:33-40). The implementation would clearly reduce processing time. The examiner's rationale is to combine the idea of resolution threshold to the resize the windows only when the

threshold is reached, not to integrate the entire Buote's system. It has been held that "The test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference.... Rather, the test is what the combined teachings of those references would have suggested to those of ordinary skill in the art." In re Keller, 642 F.2d 413, 425, 208 USPQ 871, 881 (CCPA 1981). See also In re Sneed, 710 F.2d 1544, 1550, 218 USPQ 385, 389 (Fed. Cir. 1983) ("[I]t is not necessary that the inventions of the references be physically combinable to render obvious the invention under review."); and In re Nievelt, 482 F.2d 965, 179 USPQ 224, 226 (CCPA 1973) ("Combining the teachings of references does not involve an ability to combine their specific structures.").

4. The appellant argues that Rodden and Buote teach away from the claimed invention because the references do not teach: 1) maximizing a window when the size and position are not specified and the screen resolution is below a predetermined threshold, and 2) reducing the size of the maximized window by a predetermined amount when a restore button on the maximized window is initiated, as recited in claims 1, 8 and 14 (The brief, page 13, last par.). The appellant is in error because: 1) the "restore button" limitation is not recited in claims 1 and 8, and 2) in view of the combined resolution threshold, the un-windows would maintain their size and position when the resolution is above the threshold and maximized when the resolution threshold is reached. The specified windows would maintain their size and position (1:56-59, 5:1-4).

The appellant further argues that Buote fails to disclose altering a window size because all windows are set to be 600x800 (Brief, page 14, lines 16-17). This argument

appears contradict to appellant's previous admission that Buote's windows alter their size when a resolution threshold is crossed (Brief, last par, bridging between pages 12 and 13).

The appellant correctly states that Buote provides a "user interface design" that generates a consistent look for functional screens, however argues that the "user interface design" disclosed by Buote is in a different field of invention. In response to the argument, Rodden's field of invention clearly states "The present invention is generally directed to graphical user interface for computers, and more particularly to the automatic repositioning and/or resizing of utility windows in response to actions that may affect the view or content of such windows on the display" (1:10-14). One of skill in the art would be readily recognize that the both Rodden and Buote direct to the same problem of consistency of graphical user interface display, particularly responsive to resolution changes. Further, it has been held that "When a work is available in one field of endeavor, design incentives and other market forces can prompt variations of it, either in the same field or a different one. If a person of ordinary skill can implement a predictable variation, § 103 likely bars its patentability. For the same reason, if a technique has been used to improve one device, and a person of ordinary skill in the art would recognize that it would improve similar devices in the same way, using the technique is obvious unless its actual application is beyond his or her skill. Id. at, 82 USPQ2d at 1396." And "Common sense teaches . . . that familiar items may have obvious uses beyond their primary purposes, and in many cases a person of ordinary skill will be able to fit the teachings of multiple patents together like pieces of a puzzle...A person of ordinary skill

is also a person of ordinary creativity, not an automaton.” KSR, 127 S. Ct. at 1742, 82 USPQ2d at 1397.

Claims 1 and 5-7: The appellant argues that Rodden does not teach “determining, for the window, whether a display size and display screen position is specified for the window”. The limitation is clearly disclosed by Rodden in 1:56-59, wherein “If the position of a given window changes relative to available display space, a determination is first made of the preferred size and position of the window”. Clearly, a display size, i.e., “the preferred size” of the window is specified. The appellant equates Rodden’s teaching of window resizing as “keep visible”. This interpretation appears misplaced since Rodden’s teaching of repositioning is a different issue and in parallel with resizing (“automatic repositioning and/or resizing of utility windows”. Rodden’s 1:11-12). The appellant further argues that Rodden does not teach “user” designating a size or position. The argument is not persuasive because the limitation “user” is not recited in the claim. In addition, Rodden clearly teaches that the user designates which window should maintain its display size (“The user might be provided with a preference feature for each window, to allow certain type of windows to be identified as those which the user desired to keep visible (*i.e., by reposition and/or resizing*) on a desktop”. Rodden 4:38-41). The designated window size is the preferred size, according to Rodden’s 1:56-59. The appellant applies the same arguments against Buote. The arguments are irrelevant and are misplaced since Buote is relied for the teaching of resolution threshold. As decided by the Court: “The test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference....

Rather, the test is what the combined teachings of those references would have suggested to those of ordinary skill in the art.” In re Keller, 642 F.2d 413, 425, 208 USPQ 871, 881 (CCPA 1981). See also In re Sneed, 710 F.2d 1544, 1550, 218 USPQ 385, 389 (Fed. Cir. 1983) (“[I]t is not necessary that the inventions of the references be physically combinable to render obvious the invention under review.”); and In re Nievelt, 482 F.2d 965, 179 USPQ 224, 226 (CCPA 1973) (“Combining the teachings of references does not involve an ability to combine their specific structures.”). As set forth in the rejection, Rodden as combined with Buote allows windows to maintain its display size and position if the windows are specified, and causes the windows to be maximized when the screen resolution is below a pre-determined threshold value, if the windows are not specified.

The appellant alleges that the 12/26/2006 Office action admits that Rodden fails to teach the claim requirement of automatically maximizing the size of the window (Brief, page 17, lines 11-12). The appellant reading of the Office action is largely incorrect. Instead, it should be read as it was clearly written: “Rodden fails to clearly teach the comparing the screen resolution against a pre-determined threshold value and automatically maximizing the size of the window on the display screen if the screen resolution is below the pre-determined threshold value” (Final action, page 3, lines 4-7).

The appellant argues that Buote does teach a uniform maximization when the screen is 600x800, however argues that Buote does not teach comparing the screen resolution with a threshold. In response to the argument, 600x800 is a resolution threshold for the maximization of the window, and the window would not be maximized without a comparison between a set screen resolution and the 600x800 threshold.

The appellant further argues that the combined references do not teach the limitation “wherein the resolution does not change”. Support for this limitation can not be found on the appellant’s specification. Even so, Rodden clearly teach that change in resolution does not have to be triggered by manually changing the resolution of a specific computer, but can also be trigger by changing from a first display device to a second display device, in which case the resolution remain the same in each of the device (Rodden’s 1:40-43).

From the above analysis, it is respectfully conclude that claims 1 and 5-7 are not patentable over the combination of Rodden and Buote.

As for claim 3: The appellant argues, for a first time, that the combined Rodden and Buote do not teach determining if an un-specified window is capable of being maximized. In response to the argument, Rodden clearly teach specified windows will not be maximized response to resolution changed. As clearly admitted by the appellant in the specification that it is conventionally well known in the design of windows that some windows may not equipped to be maximized, but are only created to be one size. These windows are incapable of maximization (the spec, page 12, lines 12-18). Buote similarly teaches a number of fixed-size windows, incapable of being maximized (figs 17- 22). Thus it appears that determination of whether a window is capable of being maximized is inherently, or alternatively would be obvious in view of Rodden and Buote.

As for claim 4: The appellant argues that the combined Rodden and Buote do not teach the “Restore” button. As disclosed in the appellant’s specification “once a window is maximized, the maximized button 214 is replaced by a restore button 238”

(the spec, page 11, lines 15-16). Claim 4 recites “*if the restore button has been initiated, reducing the size of the window on the display screen by a pre-determined amount*”. This button appears to the well known window sizing buttons in the art of window display. Well known window sizing buttons comprises three buttons displayed at the upper right hand corner of the window, correspond to a minimize, maximize/reduce, and close function. The middle button toggles between a maximize and reduce states. The appellant requests supporting document for the Official notice taken by the examiner. In response to the request, previously cited US patent application publication 2002/0075289 in the teaching of restoring window size, discloses the button in figure 3. Figure 3 shows three window sizing buttons at the upper right hand corner of the bottom window, wherein the middle button is in reduce state (the blurring bottom window in figure 3 can be zoomed-in to clearly show this button). Clicking this button initiates the reducing of the window to a pre-determined amount. This teaching in the ‘289 application publication clearly supports the Official notice taken by the examiner. In addition, Buote teaches a button 149 for returning the window to a previous state. Accordingly, claim 4 is not patentable over the combined Rodden and Buote and the Official notice. “Common sense teaches . . . that familiar items may have obvious uses beyond their primary purposes, and in many cases a person of ordinary skill will be able to fit the teachings of multiple patents together like pieces of a puzzle...A person of ordinary skill is also a person of ordinary creativity, not an automaton.” KSR, 127 S. Ct. at 1742, 82 USPQ2d at 1397.

As for claims 8, 12, 13: Although claims 8, 12, and 13 are grouped separately from claim 1, the appellant repeats the same arguments applied in claim 1. Rather than retyping the same response to these claims, it is respectfully submit that the analysis set forth above to be incorporated into this rejection of claims 8, 12, and 13.

As for claim 11: Although claim 11 is grouped separately from claim 4, the appellant repeats the same arguments applied in claim 4. Rather than retyping the same response to this claim, it is respectfully submit that the analysis set forth above in the rejection of claim 4 to be incorporated into this rejection of claim 11.

As for claim 14: Although claim 14 is grouped separately from claims 1 and 4, the appellant repeats the same arguments applied in claims 1 and 4. Rather than retyping the same response to this claim, it is respectfully submit that the analysis set forth above in the rejections of claims 1 and 4 to be incorporated into this rejection of claim 11.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Ba Huynh

/Ba Huynh/

Primary Examiner, Art Unit 2179

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